

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
EASTERN DIVISION**

**SHAWN M. SINGLETON**

**PLAINTIFF**

**VS.**

**CIVIL ACTION NO. 4:06CV29LA**

**TODD KEMP, MARY MCLENDON  
and CLARKE COUNTY JAIL**

**DEFENDANTS**

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**REPORT AND RECOMMENDATION  
OF UNITED STATES MAGISTRATE JUDGE**

This matter has been referred to the undersigned by District Judge Tom S. Lee for a Report and Recommendation as to its disposition. The court set an Omnibus Hearing in this matter by an Order entered on February 1, 2007, and sent to the Plaintiff at his last known address of Post Office Box 464, Bay Springs, Mississippi, 39422. The hearing was set for 9:00 a.m. on February 26, 2007. Despite being called into court numerous times that morning, the Plaintiff failed to appear before the undersigned. Counsel for the Defendants, William Allen, moved that the matter be dismissed, and the undersigned is of the opinion that this matter should be dismissed.

This court has the authority to dismiss an action for failure of a plaintiff to prosecute or to comply with any order of the court both under Fed. R. Civ. P. 41(b) and under its inherent authority. *See McCullough v. Lynaugh*, 835 F.2d 1126 (5th Cir. 1988); *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-631 (1962). Such a sanction is necessary in order to prevent undue delays in the disposition of pending cases and to avoid congestion in the calendars of the court. *Link, supra*, 370 U.S. at 630. The actions of the Plaintiff also prejudice the rights of the Defendants to promptly and fully defend the claims made against them. It appears to the undersigned that this Plaintiff has lost interest in

prosecuting his claims against the Defendants; therefore, the undersigned recommends that this cause of action be dismissed pursuant to Fed. R. Civ. P. 41(b), without prejudice.

The parties are hereby notified that failure to file written objections to the proposed findings, conclusions, and recommendations contained within this report and recommendation within ten (10) days after being served with a copy shall bar that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the District Court. 28 U.S.C. § 636; *Douglass v. United Services Auto. Ass'n*, 79 F.3d 1415, 1428-29 (5<sup>th</sup> Cir. 1996).

This the 27<sup>th</sup> day of February, 2007.

S/Linda R. Anderson  
UNITED STATES MAGISTRATE JUDGE